P. File 20 of 94

G. R. S. IX-5]

Previous references.

1893-94

191

(L. R.)

Later references.

File No. 96 of 93.

Serial Nos. 1 to 5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5

M ~~Part~~ B for July 1894

SUBJECT.

Appeal of Kallian of Chaghatta, Hoshiarpur tahsil regarding the Patti-hak.

W D 1250—GPE—30,000 - 28-1-19

Countersigned

Indexed

A.S. No 123 of 93-94

Appellant (Plff)

Kallaiya, son of Danaiya minor by guardian Sidilaiya

Respondents (Defts)

1 Kallelingaiya son of Kallaiya
2 Sanna Kallaiya son of
3 Danaiya (Father of the Defts).

The suit is to establish Appellant's right to half share in the Paddy Rak of Sehaghatta & to do duties of the office in the place of the 1st Respondent.

In the Pattiswami Register of 1847, Kallaiya & Sannaiya are ~~[illegible]~~ shown as Hakkalas & Anubhavadars & ~~[illegible]~~ Kallaiya as the doing Sort work.

In the Registering Village Servants for 1865 (Exh. B.), Kallaiya, deceased, son Kallelingaiya, & Sannaiya are Registered, and Kalle Lingaiya, Gundi Lingaiya, & Lingaiya, the Vazandars of Hakkalas actually doing duty.

Vide pages No 10 in the record of Case No 5 of 89-90.

Exh. C, extract from Register of village servants, preparing in 1865 — the names of the Hereditary is enumerated. In other respects it is the same as Exh. B.

Exh. D. Patti Register of 1869-70. Sannad does not ~~[illegible]~~ that to duties — Mudilingaiya & Linganaiya.

Basaiya died about 1868. Shortly afterwards his alleged brother Lingaiya. At the time of Polage settlement Mudlingaiya son of Sinnappa was appointed. He died only till 1887 when the fathers of pl. & 2nd respondents brought a suit which ended in compromise & a decree was passed to the effect that the Pl. & the 2nd Respondent Kallappa (in the present case) be registered as Hereditary Shanbogs the allowed to hold to do duty by turns of two years.

Plaintiff, ~~[illegible]~~ claims the office on the ground that the registration Basaiya was his grandfather Lingaiya the brother. This statement is corroborated by his witnesses. Defendants state that Basaiya brothers son grandfather of Pl.

Vide extract of Register in the record of Case No 87 of 89.

that Basaiya Hereditary holding the Patti as the Hindus died there. His son Francis (Pl's father) returned to Sekapura in 1876-77 but died within a very short time.

96. 7. 89.

(4)

Both parties have produced genealogical tables in support of their statements.

The Asst-Comrs found the said Basaiya to be the ~~Beekan~~ ancestor of Plff not of deftg, + Plff to be Hakdar of one third share, but dismissed the suit as barred by the Law of Limitation.

The Dy Comrs, ~~on~~ dismissed the appeal, as barred by the Law of Limitation + observed that ~~the judgment~~ the evidence on which the Asst Comr based his conclusion regarding the of Plff to Basaiya was not admissible

The appeal is against the above decision —

Plff is stated to be 17 years old in the Plaint which is of 7.4.93.

of these No 2 Lingaiya (son of Sinnaniya) was appointed as the Potel.

In 1889 ~~the present 1st and 2nd Defts~~ Mudu-Lingaiya (8) and Kalle-Lingaiya (6) brought a suit ~~against the 3rd Defdt~~ against Lingaiya (7), the Pakkatotgi man, saying that he was no Hakkar. In the course of the suit he entered into a Razinama, according which a decree was passed that ~~the present 1st and 2nd Defts alone should be Potel and do the work by rotation of 2 years, each~~. ~~Since then~~ the Sons of the two Plffs of that case viz:

1 Sanna Kallaiya, son of Mudulingaiya (8)

2 Kallaiya, son of Kalle Lingaiya (6)

of 1888-9

x 5th July 1889

x 2nd Deft in this case

(8) 1st Deft in this case.

should be Patels, doing work by a rotation of two years each.

8. Shortly afterwards Kallaiya, son of Lingaiya brought a suit against the said two persons (Sankaiya and Kallaiya) and also his own father Lingaiya to the effect that his father gave the Rangenama fraudulently and that he must be appointed Patel. The lower Court dismissed the suit but in appeal the Commr. declared him to be a "Hukdar". But it appears that no further relief was granted and that he has since died. Hence,

E. S. 1882-3.

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9. The Pltff in the present case gives the following genealogical tree of his family:-

Lugaiza (Original man)

- Lugaiza
  - Danaiza
    - Kallaiza Piff
  - Kallaiza
- Basaiza
  - Registrar

10 He claims Basaiza (B) of the Registers of 1847 and 1865, as his grand uncle; ~~but the~~ ~~genealogies do not~~ ~~proved~~. Even granting his identity with Basaiza (B), it will be seen that only the name occurs in those Registers whereas other names occur as performers of work.

Piff says that his grand uncle Basaiza held office till 1868 and died; that his grandfather Lugaiza did not do work.

A question is raised in the case under consideration

* This seems to have been some other man than (B) to him ~~but not~~ Mugalikatte

Village, ~~lived~~ and died there;
but that when going to that
Village he appointed the
fathers of the Plffs as his agents
on condition of their giving
back to him his share of the
office to him, when he sh^d
come back. &c. &c

12 Mr McCormick's ~~[illegible]~~ judgment
explains the merits of the case
fully.

Note The genealogical trees given
by the parties in the previous
cases and in this, to wit
those the original Pedigrees
of the Registers to which their
own respective ancestors,
differ from each other very
much.

Sp. Appeal No 123 of 1893-4

(9)

Appellant

allaiya (minor, son of Danaiya ~~deceased~~) guardian Siddaiya

Appt's age is stated by himself to be 17 years.

Respts.

~~by~~ 1 Kalle-Lingaiya ~~son of Kallaiya~~

2 Son. Kallaiya ~~son~~

3 Danaiya ~~brother~~ } of the ~~Respt.~~ of 2nd ~~Respt.~~ } di-linga

1. This was a suit for half share of the Poteli of Icha-Gatta Village, Hollalkere Taluk. The Original Court in the Asst. Commr of ~~Chitaldrug~~ ~~held~~ that the Appellant was a descendant of ~~an~~ Basaiya, one of the two names mentioned in the Register of 1868; but as neither Plff nor his ~~father~~ ~~had as Plff's father~~ and ~~Grandfather~~ ~~did not~~ did ever perform ~~any~~ the work of the office, he lost his Huk. The Suit was therefore dis-missed.

2 In appeal the Dy Commr Mr. C. Srinivasaiyar con-firmed the decree of the

lower Court, ~~holding that~~ ~~that~~ it was not clearly established that the Plff was the descendant of Basaiya.

3. The appeal is against that order.

and remarking as regards the alleg descent of the Plff the aforesaid Basa the lower Court was w in relying upon a -ment passed in a case (the same ca is referred to in par of this Memo).

---

4 In the Register of 1847 two names occur thus:

Hukdars	Performer of work
1 Hallaiya	Hallaiya
2 Basaiya	

5 In next Register, viz that of 1865 shows:—

Hukdars	Performers of wor
1 Hallaiya deceased. His son Halle-lingaiya present	1 Halle-lingaiya
	2 Mudu-lingaiya
2 Basaiya	3 Lingaiya

6. At the time of the Pakka Potgi in 1877 ~~two~~ three names were mentioned as Hukdars viz 1 Mudulingaiya
2 Lingaiya
3 Basaiya (deceased).

will it be ~~infected~~
arrested by the subsequent
marriage of Pltff

Subsequ. 12 VR
~~Subsequ~~ 23 k 285
10 VR

Dit Under Sec 7,
Limitation Act
Cns Offences are
been ~~when~~ then
his absolute
power. ~~Those~~
~~Authorities~~

Dit. We have authorities
Cns. Shows - ~~Authorities~~
Dit ~~that~~ that if a person
is born after
the cause of action
arose, limitation
does not affect him.

Dit The Question
of the right of the suit
brought within 3 years
from

J. Cr What the issue for for today
is Question of Pltff
& not of Defr.
Limitation is the main point

Dit. At least
when a person
was not born
any claim
influence the pltff
His Ancestors
Defendants

Hon. Cr What
is the use of
that, if you
have no right

A. S. 02 3993 94

Kallanja by Mr D'Kuchemann

vs

Kallanja & by Mr J. Savanja

12 July 94

Mr D'Kuchemann said in Council today that he did not find any decision and that he had no authorities to refer to

C. J. 12/7

Rev. Cr. H. [illegible] the case was [illegible]

[illegible]

Rev. Cr. [illegible] action in 1886. Suit filed [illegible]

[illegible]

Dit. [illegible] a [illegible] 1880 [illegible]

Rev. Cr. When [illegible] began to [illegible]

Appeal No. 123 of 1893-94

Appt.
Lallah
of Ichgatta

Respts.
1 Kalle Lungah
2 Lankallah
" Dania

This is an appeal against the decision of the Dy Commr ~~[illegible]~~ dismissing the suit brought by the appt. for ~~the [illegible]~~ half share in the Palade Hatch of the village of Ichgatta, on the grounds that it was barred by the Law of Limitation.

Appellant admits that neither her ~~representatives~~ ancestors has possession of the Hatch from 1868, but states that the 1st Respt. was employed to do duties on her behalf. There is no documentary evidence to prove that 1st Respt. undertook the office on any such condition, & the oral evidence adduced was positively repeated by the Lower Courts ~~[illegible]~~ as it was

altogether unsatisfactory. The appt's advocate ~~has failed to~~ asking urges that Abbakkaut was ~~a minor~~ ~~but the ... & that~~ & that his minority only 17 years old when he brought the suit, & that if the period of his minority be deducted from the period of 25 years that has elapsed between ~~the~~ ~~from~~ 1868 when the cause of action arose & ~~the date of the~~ 1893 in which the suit ~~was brought~~ was brought, the suit would be in time, but the Gov observes that appt was not born when the cause of action arose, & that consequently the period of limitation cannot be arrested by his subsequent ~~mere~~ birth & minority. The suit was therefore properly dismissed & there is no reason whatever for ~~allowing it~~ modifying the decree of the Dy Cons — The appeal is dismissed

C.C. 15/7/94

Read.

Mr is informed that her appeal has been dismissed.

MP

Redcliffe
21/7/17

Dunfee
MR
17/7

General Serial No. 32.)

1894 (2)

No. 3397

Name of Petitioner. [illegible]

Village. [illegible]

Taluk. Bangalore

District.

Date of Arzi. 28-5-94

Date of Receipt. 28-5-94

Date of Disposal.

No. of Enclosures. [illegible]

ABSTRACT.

Re-submits his appeal petition with stamps of proper value affixed.

30/5.

Defficiency in stamps made good and appeal re-presented within the time allowed

Sd/- for orders

2.6.J 1/6/94

Read at Mysore 9/6.

Appeal from a decree in a petition.

(1) Fix for hearing.
(2) Issue notice to parties.
(3) Call for proceedings.

9/6

Defect noted in margin of memo.

Posted to 5 July

Date at once.

2.6.J. 19/6

L.R. 96-93-1

Pet 3397 — 9-6-93, Nagesh

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

(3)

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1627/3397 dated 9-12-93 received at the Dewan's Office from Nallaiya son of Ponna Gowda, minor by guardian Siddaiya, of Senagatta, Kotal-Kere Taluk, appealing against the concurring orders in Civil Appeal No. 1023-94 regarding his ancestral share in the Estate of the said village is forwarded, together with its four enclosures, to the Deputy Commissioner, Chitaldrug, direct for submission of the entire proceedings relating to the case before the 30th instant.

2. The Petition with its enclosures should be returned.

L.R. 96-93-2

By Order,

Draft

20/6/94

BANGALORE,
20th June 1894

for Chief Secretary.

22

M.G.C.P. Bangalore.—5-5-94.—1,000.

Petn
29.6.94

Sir,
This case has been fixed for hearing to 5th July 1894.

29/6.

Mr Krishna Rao.
Please take the (1) plaint (2) written statement & calculate the expenses of litigation by Monday

29/6

R.R. 96-93-3

(General Serial No. 30. 19152

1894. Pet 834

From
The Deputy Commissioner Chittaldrug Dist.

To
The Chief Secretary to the Dewan of Mysore.

Dated 27th
Despatched } June 1894.
Received

Enclosures No. 3 with index
General No. 8752. list of records
No. 753. and abstracts

His official Memorandum No. Pet. 2041 dated 20 22nd Instant.

With reference to the above has the honor to submit both original and appeal records in case No. 1 of 1893/94 regarding the Potalee-hag of Sehagatta village, Holalkere Taluk.

The petition with its enclosures is also submitted

Deputy Commissioner

(1)

(19)

Petition 30-7-94 23/12/93

COURT FEE FORM

Two Rupees stamp

1627R 23-12-93

A.S. No 123 of 93-94.

The Government of Mysore
Bangalore.

Revenue Appeal Suit No of 1893-4

Appellant (Plff)	Respondents (Defts)
Kallaiya Son of Gowda Dannah Minor by guardian Siddaiya	1. Kalle Lingaiya 2. Sanna Kallaiya 3. Dannaiya

The appellant, above named respectfully begs to appeal against the decision passed by the Deputy Commr. of Chitaldrug in Revenue Appeal Case No 1 of 1893-4 on the following grounds:

1. That both the Lower Courts erred in holding that the Suit was barred by limitation.

2. That both the Lower Courts failed to take into consideration the minority of the Plff.

3. That the Lower Appellate Court erred

erred in holding that the Plaintiff is not the Poili Hukdar.

4. That the Lower Appellate Court ought to have remanded the case to ascertain exactly the relationship of the Plff with the original holder of the office, if it considered the admission of the Defts in this and in the previous proceedings were not sufficient to establish Plff's relationship.

5. That both the Lower Courts lost sight of the fact that Defts 2 & 3 were foreigners to the Huk in considering the Plff's claim.

6. For these reasons the Appellant prays that his right to the office in question may be established and that he might be put in possession thereof

Bangalore
9th December

D Venkatarama Iyer
Advr for Appt

22 MAR 1894

OFFICE OF THE
1 JAN. 94

"By order"

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT
REG'D. No. 2019 R 1
DATE 15-1-94

Chief Secretary.

Taken out
[illegible]
15/1/94

The Court fees act does not provide for second appeals for Revenue Cases like Stamp act, regular Revenue Appeals. The appeal petition is only a petition to the highest Revenue Authority in the Province of Mysore. The Appellant submits that the petition is being stamped with Rs 2/- ~~stamp~~ of any doubt is entertained on the point, the appellant prays that the matter may be put before the Council for adjudication on question of stamp.

Bangalore
17-1-94

D. Venkatarama Iyer
Adv. for Petitioner

Before the Government of *His Highness* the Maharaja of Mysore.

(22)

(6)

Appeal No. 123 of 1893-94

Appellant. Vs. Respondent.

...ddiah, Patel of ...hgatta, Holalkere Taluk ...esented by Mr. ... Venkatramiah advocate.

1. Kalle Lingiah
2. Sanna Kahaiya
3. Damia.

Decision.

L.R. 96-93-4

This is an appeal against the decision of the Dy. Commissioner dismissing the suit brought by the appellant for half share in the Patelki hak of the village of Ichgatta, on the ground that it was barred by the law of limitation.

2. Appellant admits that neither he nor his ancestors had possession of the hak from 1868, but states that the 1st Respondent was employed to do duties on his behalf. There is no documentary evidence

evidence to prove that 1st Respondent undertook the office on any such condition, and the oral evidence adduced was properly rejected by the lower courts, as it was altogether unsatisfactory. The appellant's advocate urged at the hearing that appellant was only 17 years old, when he brought the suit, and that if the period of his minority be deducted from the period of 25 years that has elapsed between 1868 when the cause of action arose and 1893 in which the suit was brought, the suit would be in time, but we must observe that appellant was not born when the cause of action arose, and that consequently the

The decree of the Rev. Commissioner
The appeal is dismissed.
Reporter

Chief Secretary

No. 6661 / P.20-34 dt. 23/7/34.
Copy of the Rev. Commr. in Calcutta, District Barasat, returning the Vernacular records received with his No. 872/753 dated 27th June 1894.

Chief Secy

28/7

+ Three files each by parcel separately - Sect. 2/8/34

Report
Council order.
S.K.R.
17/7.

Approved
20/7

Print in Calcutta
Uj 5/8

Press copy prepared
3/8
Uj.

copy by W.S. the Rev. 20/7

30-7-94

No. 1627/3397

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

(5)

(25)

23/30 July 1894

Endorsement granted to Kallaiya son of Gowda samiat minor by guardian Siddaiya of Kehagalla, Holalkere Taluk

in reply to his Petition Registered No. 1627/3397 dated 9 Dec. 1893

appealing agt. the Chitaldroog Dy Commissioners order dismissing his suit for half share in the patti of the village.

Petitioner is informed that his appeal has been dismissed.

2. Inels are returned

L. R. 96-93-5

"By Order"

Chief Secretary.

M. G. C. P. Bangalore—6-8-94.—2000.